

# HOUSE BILL No. 6034

May 17, 2018, Introduced by Reps. Gay-Dagnogo, Wittenberg, Chang, Geiss, Sneller, Cambensy, Sabo, Lasinski, Garrett, Pagan, Moss, Durhal, Yancey, Ellison, Green, Yanez, Byrd, Chirkun and Jones and referred to the Committee on Agriculture.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 50 (MCL 750.50), as amended by 2007 PA 152.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 50. (1) As used in this section and section 50b:

2       (a) "Adequate care" means the provision of sufficient food,  
3       water, shelter, sanitary conditions, exercise, and veterinary  
4       medical attention in order to maintain an animal in a state of good  
5       health.

6       (b) "Animal" means any vertebrate other than a human being.

7       (c) "Animal protection shelter" means a facility operated by a  
8       person, humane society, society for the prevention of cruelty to

1 animals, or any other nonprofit organization, for the care of  
2 homeless animals.

3 (d) "Animal control shelter" means a facility operated by a  
4 county, city, village, or township to impound and care for animals  
5 found in streets or otherwise at large contrary to any ordinance of  
6 the county, city, village, or township or state law.

7 **(E) "DEVOCALIZATION" MEANS THAT TERM AS DEFINED IN SECTION**  
8 **18830 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18830.**

9 **(F)** ~~(e)~~—"Licensed veterinarian" means a person licensed to  
10 practice veterinary medicine under article 15 of the public health  
11 code, 1978 PA 368, MCL 333.16101 to 333.18838.

12 **(G)** ~~(f)~~—"Livestock" means that term as defined in the animal  
13 industry act, ~~of 1987,~~ 1988 PA 466, MCL 287.701 to ~~287.747.~~ **287.746.**

14 **(H)** ~~(g)~~—"Person" means an individual, partnership, limited  
15 liability company, corporation, association, governmental entity,  
16 or other legal entity.

17 **(I)** ~~(h)~~—"Neglect" means to fail to sufficiently and properly  
18 care for an animal to the extent that the animal's health is  
19 jeopardized.

20 **(J)** ~~(i)~~—"Sanitary conditions" means space free from health  
21 hazards including excessive animal waste, overcrowding of animals,  
22 or other conditions that endanger the animal's health. This  
23 definition does not include any condition resulting from a  
24 customary and reasonable practice pursuant to farming or animal  
25 husbandry.

26 **(K)** ~~(j)~~—"Shelter" means adequate protection from the elements  
27 and weather conditions suitable for the age, species, and physical

condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog's owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

~~(I)~~ ~~(k)~~—"State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

~~(M)~~ ~~(l)~~—"Tethering" means the restraint and confinement of a dog by use of a chain, rope, or similar device.

**(N) "THERAPEUTIC PURPOSE" MEANS THAT TERM AS DEFINED IN SECTION 18830 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18830.**

~~(O)~~ ~~(m)~~—"Water" means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or

1 custody of an animal shall not do any of the following:

2 (a) Fail to provide an animal with adequate care.

3 (b) Cruelly drive, work, or beat an animal, or cause an animal  
4 to be cruelly driven, worked, or beaten.

5 (c) Carry or cause to be carried in or upon a vehicle or  
6 otherwise any live animal having the feet or legs tied together,  
7 other than an animal being transported for medical care, or a horse  
8 whose feet are hobbled to protect the horse during transport or in  
9 any other cruel and inhumane manner.

10 (d) Carry or cause to be carried a live animal in or upon a  
11 vehicle or otherwise without providing a secure space, rack, car,  
12 crate, or cage, in which livestock may stand, and in which all  
13 other animals may stand, turn around, and lie down during  
14 transportation, or while awaiting slaughter. As used in this  
15 subdivision, for purposes of transportation of sled dogs, "stand"  
16 means sufficient vertical distance to allow the animal to stand  
17 without its shoulders touching the top of the crate or  
18 transportation vehicle.

19 (e) Abandon an animal or cause an animal to be abandoned, in  
20 any place, without making provisions for the animal's adequate  
21 care, unless premises are vacated for the protection of human life  
22 or the prevention of injury to a human. An animal that is lost by  
23 an owner or custodian while traveling, walking, hiking, or hunting  
24 is not abandoned under this section when the owner or custodian has  
25 made a reasonable effort to locate the animal.

26 (f) Negligently allow any animal, including one who is aged,  
27 diseased, maimed, hopelessly sick, disabled, or nonambulatory to

1 suffer unnecessary neglect, torture, or pain.

2 (g) Tether a dog unless the tether is at least 3 times the  
3 length of the dog as measured from the tip of its nose to the base  
4 of its tail and is attached to a harness or nonchoke collar  
5 designed for tethering.

6 **(H) PERFORM A DEVOCALIZATION PROCEDURE ON AN ANIMAL OR**  
7 **KNOWINGLY PERMIT A DEVOCALIZATION PROCEDURE TO BE PERFORMED ON AN**  
8 **ANIMAL WITHOUT A DETERMINATION BY A LICENSED VETERINARIAN THAT THE**  
9 **PROCEDURE IS FOR A THERAPEUTIC PURPOSE AS PROVIDED IN SECTION 18830**  
10 **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.18830.**

11 (3) If an animal is impounded and is being held by an animal  
12 control shelter or its designee or an animal protection shelter or  
13 its designee or a licensed veterinarian pending the outcome of a  
14 criminal action charging a violation of this section or section  
15 50b, before final disposition of the criminal charge, the  
16 prosecuting attorney may file a civil action in the court that has  
17 jurisdiction of the criminal action, requesting that the court  
18 issue an order forfeiting the animal to the animal control shelter  
19 or animal protection shelter or to a licensed veterinarian before  
20 final disposition of the criminal charge. The prosecuting attorney  
21 shall serve a true copy of the summons and complaint upon the  
22 defendant and upon a person with a known ownership interest or  
23 known security interest in the animal or a person who has filed a  
24 lien with the secretary of state in an animal involved in the  
25 pending action. The forfeiture of an animal under this section  
26 encumbered by a security interest is subject to the interest of the  
27 holder of the security interest who did not have prior knowledge

1 of, or consent to the commission of the crime. Upon the filing of  
2 the civil action, the court shall set a hearing on the complaint.  
3 The hearing ~~shall~~**MUST** be conducted within 14 days of the filing of  
4 the civil action, or as soon as practicable. The hearing ~~shall~~**MUST**  
5 be before a judge without a jury. At the hearing, the prosecuting  
6 attorney has the burden of establishing by a preponderance of the  
7 evidence that a violation of this section or section 50b occurred.  
8 If the court finds that the prosecuting attorney has met this  
9 burden, the court shall order immediate forfeiture of the animal to  
10 the animal control shelter or animal protection shelter or the  
11 licensed veterinarian unless the defendant, within 72 hours of the  
12 hearing, submits to the court clerk cash or other form of security  
13 in an amount determined by the court to be sufficient to repay all  
14 reasonable costs incurred, and anticipated to be incurred, by the  
15 animal control shelter or animal protection shelter or the licensed  
16 veterinarian in caring for the animal from the date of initial  
17 impoundment to the date of trial. If cash or other security has  
18 been submitted, and the trial in the action is continued at a later  
19 date, any order of continuance ~~shall~~**MUST** require the defendant to  
20 submit additional cash or security in an amount determined by the  
21 court to be sufficient to repay all additional reasonable costs  
22 anticipated to be incurred by the animal control shelter or animal  
23 protection shelter or the licensed veterinarian in caring for the  
24 animal until the new date of trial. If the defendant submits cash  
25 or other security to the court under this subsection the court may  
26 enter an order authorizing the use of that money or other security  
27 before final disposition of the criminal charges to pay the

1 reasonable costs incurred by the animal control shelter or animal  
2 protection shelter or the licensed veterinarian in caring for the  
3 animal from the date of impoundment to the date of final  
4 disposition of the criminal charges. The testimony of a person at a  
5 hearing held under this subsection is not admissible against him or  
6 her in any criminal proceeding except in a criminal prosecution for  
7 perjury. The testimony of a person at a hearing held under this  
8 subsection does not waive the person's constitutional right against  
9 self-incrimination. An animal seized under this section or section  
10 50b is not subject to any other civil action pending the final  
11 judgment of the forfeiture action under this subsection.

12 (4) A person who violates subsection (2) is guilty of a crime  
13 as follows:

14 (a) Except as otherwise provided in subdivisions (c) and (d),  
15 if the violation involved 1 animal, the person is guilty of a  
16 misdemeanor punishable by 1 or more of the following and may be  
17 ordered to pay the costs of prosecution:

18 (i) Imprisonment for not more than 93 days.

19 (ii) A fine of not more than \$1,000.00.

20 (iii) Community service for not more than 200 hours.

21 (b) Except as otherwise provided in subdivisions (c) and (d),  
22 if the violation involved 2 or 3 animals or the death of any  
23 animal, the person is guilty of a misdemeanor punishable by 1 or  
24 more of the following and may be ordered to pay the costs of  
25 prosecution:

26 (i) Imprisonment for not more than 1 year.

27 (ii) A fine of not more than \$2,000.00.

1 (iii) Community service for not more than 300 hours.

2 (c) If the violation involved 4 or more animals but fewer than  
3 10 animals or the person had 1 prior conviction under subsection  
4 (2), the person is guilty of a felony punishable by 1 or more of  
5 the following and may be ordered to pay the costs of prosecution:

6 (i) Imprisonment for not more than 2 years.

7 (ii) A fine of not more than \$2,000.00.

8 (iii) Community service for not more than 300 hours.

9 (d) If the violation involved 10 or more animals or the person  
10 had 2 or more prior convictions for violating subsection (2), the  
11 person is guilty of a felony punishable by 1 or more of the  
12 following and may be ordered to pay the costs of prosecution:

13 (i) Imprisonment for not more than 4 years.

14 (ii) A fine of not more than \$5,000.00.

15 (iii) Community service for not more than 500 hours.

16 (5) The court may order a person convicted of violating  
17 subsection (2) to be evaluated to determine the need for  
18 psychiatric or psychological counseling and, if determined  
19 appropriate by the court, to receive psychiatric or psychological  
20 counseling. The evaluation and counseling ~~shall~~**MUST** be at the  
21 defendant's own expense.

22 (6) This section does not prohibit a person from being charged  
23 with, convicted of, or punished for any other violation of law  
24 arising out of the same transaction as the violation of this  
25 section.

26 (7) The court may order a term of imprisonment imposed for a  
27 violation of this section to be served consecutively to a term of



1 imprisonment imposed for any other crime including any other  
2 violation of law arising out of the same transaction as the  
3 violation of this section.

4 (8) As a part of the sentence for a violation of subsection  
5 (2), the court may order the defendant to pay the costs of the  
6 care, housing, and veterinary medical care for the animal, as  
7 applicable. If the court does not order a defendant to pay all of  
8 the applicable costs listed in this subsection, or orders only  
9 partial payment of these costs, the court shall state on the record  
10 the reason for that action.

11 (9) As a part of the sentence for a violation of subsection  
12 (2), the court may, as a condition of probation, order the  
13 defendant not to own or possess an animal for a period of time not  
14 to exceed the period of probation. If a person is convicted of a  
15 second or subsequent violation of subsection (2), the court may  
16 order the defendant not to own or possess an animal for any period  
17 of time, including permanent relinquishment of animal ownership.

18 (10) A person who owns or possesses an animal in violation of  
19 an order issued under subsection (9) is subject to revocation of  
20 probation if the order is issued as a condition of probation. A  
21 person who owns or possesses an animal in violation of an order  
22 issued under subsection (9) is also subject to the civil and  
23 criminal contempt power of the court, and if found guilty of  
24 criminal contempt, may be punished by imprisonment for not more  
25 than 90 days, or by a fine of not more than \$500.00, or both.

26 (11) This section does not prohibit the lawful killing or  
27 other use of an animal, including the following:

1 (a) Fishing.

2 (b) Hunting, trapping, or wildlife control regulated under the  
3 natural resources and environmental protection act, 1994 PA 451,  
4 MCL 324.101 to 324.90106.

5 (c) Horse racing.

6 (d) The operation of a zoological park or aquarium.

7 (e) Pest or rodent control regulated under part 83 of the  
8 natural resources and environmental protection act, 1994 PA 451,  
9 MCL 324.8301 to 324.8336.

10 (f) Farming or a generally accepted animal husbandry or  
11 farming practice involving livestock.

12 (g) Activities authorized under rules promulgated under  
13 section 9 of the executive organization act of 1965, 1965 PA 380,  
14 MCL 16.109.

15 (h) Scientific research under 1969 PA 224, MCL 287.381 to  
16 287.395.

17 (i) Scientific research under sections 2226, 2671, 2676, and  
18 7333 of the public health code, 1978 PA 368, MCL 333.2226,  
19 333.2671, 333.2676, and 333.7333.

20 (12) This section does not apply to a veterinarian or a  
21 veterinary technician lawfully engaging in the practice of  
22 veterinary medicine under part 188 of the public health code, 1978  
23 PA 368, MCL 333.18801 to 333.18838.

24 Enacting section 1. This amendatory act takes effect 90 days  
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect  
27 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6031 (request no.

**1** 04430'17) of the 99th Legislature is enacted into law.